

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

\*\*\*\*\*

SEAN NICHOLS, a minor, by his \*  
Mother and Natural Guardian, \*  
NICOLE KUZMIN-NICHOLS, \*

Petitioner, \*

v. \*

SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

No. 11-417V

Special Master Christian J. Moran

Filed: August 21, 2013

Attorneys' fees and costs; stipulation  
of fact; award in the amount to which  
respondent does not object

Clifford J. Shoemaker, Shoemaker and Associates, Vienna, VA, for Petitioner;  
Claudia B. Gangi, U.S. Department of Justice, Washington, D.C., for Respondent.

### UNPUBLISHED DECISION ON FEES AND COSTS<sup>1</sup>

On August 15, 2013, respondent filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Petitioner filed an application for attorneys' fees and costs ("Application") on July 21, 2013 to request at total of \$32,355.10. Upon review of petitioner's Application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended her application to request a total of \$30,331.41, an amount to which respondent does not object. The Court awards this amount.

On June 23, 2011, Ms. Nicole Kuzmin-Nichols filed a petition for compensation on behalf of her son, Sean Nichols, alleging that various vaccines, which Sean received on June 27, 2008, caused him to develop transverse myelitis. Petitioner received compensation based upon the parties' stipulation. Decision, filed January 22, 2013. Because petitioner received compensation, she is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Petitioner seeks a total of **\$21,750.00** in attorneys' fees and costs for his counsel. Additionally, in compliance with General Order No. 9, petitioner states that he incurred a total of

---

<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

**\$8,581.41** in out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

- A. **A lump sum of \$21,750.00 in the form of a check made payable to petitioner and petitioner's attorney, Clifford J. Shoemaker of the law firm of Shoemaker, Gentry & Knickelbein, for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**
- B. **A lump sum of \$8,581.41 in the form of a check made payable to Nicole Kuzmin-Nichols, as legal representative of the Estate of Sean Nichols, for petitioner's out-of-pocket litigation expenses.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.<sup>2</sup>

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran  
Special Master

---

<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.